

PATENT  
Atty. Dkt. No. ATT/2003-0225

### **REMARKS**

In view of the following discussion, the Applicants submit that none of the claims now pending in the application are anticipated or obvious under the provisions of 35 U.S.C. §§102 and 103. The Applicants herein amend claims 1, 8 and 12. Support for the amendments may be found in the Applicants' specification on at least page 6, lines 12-15, page 8, lines 15-21 and FIG. 4. Thus, the Applicants believe that all of these claims are now in allowable form.

#### **I. REJECTION OF CLAIMS 1-8 AND 10-19 UNDER 35 U.S.C. § 102**

The Examiner rejected claims 1-8 and 10-19 in the Office Action under 35 U.S.C. §102 as being anticipated by Bradley, et al. (US Patent 7,082,463, issued July 25, 2006, herein referred to as "Bradley"). The Applicants herein amend independent claims 1, 8 and 12 and respectfully traverse the rejection.

Bradley teaches time-based monitoring of service level agreements. Bradley teaches monitoring service level agreements. The network provides time ranges for one or more tests to be performed to allow a customer to determine if they are being provided services in accordance with their SLA. (See Bradley, Abstract; Column 2, line 60 – Column 3, line 5).

The Examiner's attention is directed to the fact that Bradley fails to teach or suggest an apparatus, method or server for making quality measurements in a network comprising means for charging a degradation against at least one particular router of the plurality of routers within the path when data related to the measurements falls below a target value and tracking a number of said degradation for each one of said plurality of routers over a period of time, as positively claimed by the Applicants. Specifically, Applicants' independent claims 1, 8 and 12 positively recite:

1. A system for making quality measurements in a network, the system comprising:
  - a plurality of routers for routing traffic through the network;
  - means for taking measurements on a path between a first router and a second router from said plurality of routers; and

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means for charging a degradation against at least one particular router of the plurality of routers within the path when data related to the measurements falls below a target value and tracking a number of said degradation for each one of said plurality of routers over a period of time. (Emphasis added).

8. A method of making quality measurements in a network, the method comprising:  
tracking at least one path that exhibits an R-Factor below a target threshold;  
tracking a start time indicating when the R-Factor of a particular path falls below the target value;  
tracking an end time indicating when the R-Factor of the particular path rises above the target value;  
determining if an overlap exists between the start time and the end time for multiple paths connecting to a particular router;  
charging the particular router connected to the multiple paths with one degradation if the overlap exists; and  
charging the particular router connected to the multiple paths with each degradation if the overlap does not exist; and  
tracking a number of said degradation over a period of time. (Emphasis added).

12. A server for making quality measurements in a network, the server comprising:  
means for taking measurements on a path between a first router and a second router from a plurality of routers; and  
means for charging a degradation against at least one particular router of the plurality of routers within the path when data related to the measurements falls below a target value and tracking a number of said degradation for each one of said plurality of routers over a period of time. (Emphasis added).

In one embodiment, the Applicants' invention teaches an apparatus, method or server for making quality measurements in a network comprising means for charging a degradation against at least one particular router of the plurality of routers within the path when data related to the measurements falls below a target value and tracking a number of said degradation for each one of said plurality of routers over a period of time. For example, the present invention translates measurements of the performance of a path between routers into measurements of the performance of the routers. (See e.g., Applicants' specification, p. 6, ll. 7-15). The performance of paths between designated sites

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may be monitored over a period of time and tracked via a matrix. (See e.g., Applicants' specification, p. 6, ll. 12-15, p. 8, ll. 15-21 and FIG. 4).

Bradley fails to anticipate the Applicants' invention because Bradley fails to teach or suggest an apparatus, method or server for making quality measurements in a network comprising means for charging a degradation against at least one particular router of the plurality of routers within the path when data related to the measurements falls below a target value and tracking a number of said degradation for each one of said plurality of routers over a period of time. Notably, Bradley only allows a customer to establish parameters for ensuring that SLA agreements are being met. (See Bradley, col. 24, ll. 14-34). For example, Bradley teaches that a customer may specify which devices to monitor for performance of a path. (See Bradley, col. 33, l. 41 – col. 34, l. 50). However, Bradley fails to teach or suggest that a degradation is charged, if the path being monitored falls below the customer defined thresholds.

In contrast, the Applicants' invention teaches an apparatus, method or server for making quality measurements in a network comprising means for charging a degradation against at least one particular router of the plurality of routers within the path when data related to the measurements falls below a target value and tracking a number of said degradation for each one of said plurality of routers over a period of time. In other words, if path measurements fall below a target value, a degradation is charged to a particular router.

Even if the Examiner interprets Bradley as "inherently" teaching a degradation is charged, the Applicants respectfully submit that Bradley does not track a number of said degradation for each one of said plurality of routers over a period of time. Namely, the number of times or instances of charged degradations are tracked over a period of time. For example, the Applicants' invention ensures that SLAs are met from a service provider's perspective. Thus, tracking the degradations of each router over time allows a service provider to determine which routers are underperforming based upon how many instances a particular router was charged a degradation over a period of time.

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In contrast, Bradley teaches ensuring that SLAs are met from a customer perspective. Thus, the methodology taught by Bradley does not care about what happens with every device within the network. Rather, the methodology taught by Bradley only monitors the specific device pairs specified by the customer and whether the SLA requirements defined by the customer are met. In other words, Bradley does not teach that the service provider tracks each time the SLA is violated for each customer and tracking which devices are likely responsible for the violation, unlike the Applicants' invention that teaches tracking a number of said degradation for each one of said plurality of routers over a period of time. Therefore, Bradley fails to anticipate the Applicants' independent claims 1, 8 and 12.

Furthermore, dependent claims 2-7, 10-11 and 13-19 depend from independent claims 1, 8 and 12, respectively, and recite additional limitations. For the same reasons discussed above, these dependent claims are also not anticipated by Bradley and are allowable. As such, the Applicants respectfully request the rejection be withdrawn.

## **II. REJECTION OF CLAIM 9 UNDER 35 U.S.C § 103**

The Examiner rejected claim 9 in the Office Action under 35 U.S.C. § 103 as being unpatentable over Bradley and Official Notice. The Applicants respectfully traverse the rejection.

The teachings of Bradley are discussed above. The Examiner takes Official Notice that a changed threshold in a computer networking environment was well known in the art the time the invention was made.

The Examiner's attention is directed to the fact that Bradley and Official Notice fail to disclose or suggest the novel apparatus, method or server for making quality measurements in a network comprising means for charging a degradation against at least one particular router of the plurality of routers within the path when data related to the measurements falls below a target value and tracking a number of said degradation for each one of said plurality of routers over a period of time, as positively claimed by the Applicants' independent claims

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1, 8 and 12. (See *supra*).

The Applicants' invention discloses an apparatus, method or server for making quality measurements in a network comprising means for charging a degradation against at least one particular router of the plurality of routers within the path when data related to the measurements falls below a target value and tracking a number of said degradation for each one of said plurality of routers over a period of time. As discussed above, Bradley simply does not teach or suggest the novel apparatus, method or server for making quality measurements in a network comprising means for charging a degradation against at least one particular router of the plurality of routers within the path when data related to the measurements falls below a target value and tracking a number of said degradation for each one of said plurality of routers over a period of time.

Moreover, the Examiner's Official Notice does not bridge the substantial gap left by Bradley because the Examiner's Official Notice also fails to teach or suggest an apparatus, method or server for making quality measurements in a network comprising means for charging a degradation against at least one particular router of the plurality of routers within the path when data related to the measurements falls below a target value and tracking a number of said degradation for each one of said plurality of routers over a period of time. Thus, for all of the above reasons, the Applicants respectfully contend that claims 1, 8 and 12 of the present invention are not made obvious by the combination of Bradley and the Examiner's Official Notice.

Furthermore, Applicants respectfully challenge the Examiner's taking of Official Notice. Applicants respectfully request the Examiner provides specific support for the Official Notice.

Moreover, dependent claim 9 depends from independent claim 8 and recites additional limitations. As such, and for the exact same reason set forth above with regard to independent claim 8 being patentable over Bradley and the Examiner's Official Notice, the Applicants submit that claim 9 is also patentable over Bradley and the Examiner's Official Notice. As such, the Applicants respectfully request the rejection be withdrawn.

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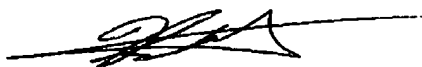
Thus, the Applicants believe that all these claims are presently in condition for allowance. Accordingly, both reconsideration of this application and its swift passage to issue are earnestly solicited.

If, however, the Examiner believes that there are any unresolved issues requiring the maintenance of the present final action in any of the claims now pending in the application, it is requested that the Examiner telephone Mr. Kin-Wah Tong, Esq. at (732) 530-9404 so that appropriate arrangements can be made for resolving such issues as expeditiously as possible.

Respectfully Submitted,

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